

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

POUNEH MORTAZAVI,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

No. C 10–3161 WHA

**ORDER DENYING
PLAINTIFF'S MOTION
FOR SUMMARY
JUDGMENT AND
GRANTING DEFENDANT'S
MOTION FOR
SUMMARY JUDGMENT**


In this social security action, plaintiff is attempting to challenge a decision by the Appeals Council denying her request for review of an unfavorable decision by an Administrative Law Judge. Plaintiff's challenge is based on the Council's failure to articulate specific reasons for apparently rejecting a medical report submitted approximately seven months after the ALJ decision issued. Plaintiff requests a remand "for proper consideration of the opinion" of her treating physician (Pl. Br. 5).

A district court may review only the Commissioner's final decision. Where the Appeals Council denies a request for review — as opposed to granting the request and then subsequently issuing a substantive decision — the Commissioner's final decision is the ALJ's decision. 20 C.F.R. 404.981. Thus, decisions by the Appeals Council denying requests for review are not subject to judicial review. *See Matlock v. Sullivan*, 908 F.2d 492, 494 (9th Cir. 1990) (holding that a decision of the Appeals Council denying a request for review "[was] not subject to judicial

1 review because the decision was not made after a mandated hearing”). This order holds that
2 plaintiff cannot challenge the Appeals Council’s denial of her request for review of the ALJ’s
3 decision in district court. Plaintiff’s motion for summary judgment is **DENIED**, and defendant’s
4 motion for summary judgment is **GRANTED**. Judgment will be entered accordingly.

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6 **IT IS SO ORDERED.**

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8 Dated: July 7, 2011


9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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